

HOUSE BILL 671
By Briley

AN ACT to create a special committee to study equal access to justice and other implications of death penalty trials.

WHEREAS, the General Assembly of the State of Tennessee recognizes the value of each person's life and the need to protect that life whenever possible; and

WHEREAS, the State should exercise utmost care to protect its residents' lives from homicide, accident, and unjust taking by the State; and

WHEREAS, significant numbers of Tennesseans maintain that inadequate representation, economic status, race, judicial error, prosecutorial misconduct, or other factors may deny some defendants the right to adequate representation and/or a fair trial in capital cases; and

WHEREAS, new methods and technologies have been developed for determining more precisely the guilt or innocence of accused in capital crimes; and

WHEREAS, the execution of an innocent person by the state of Tennessee would be an irreversible injustice; and

WHEREAS, in order to ensure a system of justice which is impartial, these issues should be carefully and exhaustively examined by the General Assembly; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. There is created a special committee to study equal access to justice and other implications of death penalty trials in Tennessee. The committee shall be known as the Death Penalty Fairness Study Committee, herein referred to as "the committee".

SECTION 2. The committee is charged to study capital punishment in Tennessee and to make recommendations designed to guarantee that, in its application and administration, capital punishment in Tennessee is free from bias and error. To that end, the committee shall, among other things, review: (1) the June 2001 Protocols of the American Bar Association Section of Individual Rights and Responsibilities; (2) *Mandatory Justice: Eighteen Reforms to the Death Penalty*, a report of The Constitution Project's bipartisan, blue-ribbon commission of capital punishment supporters and opponents; and (3) other nonpartisan, academic, and/or government inquiries into the administration of capital punishment at the state and national levels.

SECTION 3. The committee is charged to study, receive testimony, deliberate upon, and make recommendations for public policy designed to guarantee fairness and accuracy in the application and administration of capital punishment. The committee's recommendations shall address, but not be limited to, the following:

- (1) The presence of innocent persons on death row in Tennessee;
- (2) The adequacy of counsel in all stages of capital cases, and the sufficiency of guidelines for appointment and performance of such counsel;
- (3) Racial disparities and any disproportionate racial impact upon any aspect of capital case proceedings;
- (4) Jurisdictional (geographical) disparities;
- (5) Socioeconomic disparities;
- (6) The risk of innocent people being executed;
- (7) Evolving standards of decency regarding state executions;

(8) A comparison of the costs associated with death sentences and the costs associated with sentences of life in prison without the possibility of parole;

(9) The adequacy of investigative support afforded accused in capital cases;

(10) The process for judicial review of the merits of claims in state post-conviction and federal habeas corpus proceedings;

(11) Whether mentally ill persons should be executed, and what criteria should be used in judging the level of illness involved; and

(12) Prosecutorial misconduct or judicial error as a factor in the imposition of the death penalty.

SECTION 4. The committee shall consist of fifteen (15) members, as follows: three (3) members of the senate, appointed by the speaker of the senate; three (3) members of the house of representatives, appointed by the speaker of the house; three (3) persons appointed by the governor; the attorney general; a representative of the Tennessee Bar Association; a representative of the Tennessee association of criminal defense lawyers; a representative of the district attorneys general conference; a representative of the state district public defenders conference; and a representative of the office of post-conviction defender.

SECTION 5. The committee shall be convened by the legislative member with the most years of continuous legislative service, and, at its organizational meeting, shall elect from among its legislative membership, a chair, vice chair, and such other officers, as it may deem necessary.

SECTION 6. All legislative members of the committee who are duly elected members of the general assembly shall remain members of such committee until the committee reports its findings and recommendations to the general assembly. Non-legislative members of the committee shall serve without compensation, except that any member of the committee who is not a state official shall be reimbursed for all travel expenses incurred as a result of his or her

duties with the committee in accordance with the provisions of the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general.

SECTION 7. The committee shall report its findings and recommendations to the governor and the general assembly no later than July 1, 2005, at which time the committee shall cease to exist.

SECTION 8. For purposes of making initial appointments to the committee, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2003, the public welfare requiring it.